



BURLINGTON NORTHERN RAILROAD

LAW DEPARTMENT

3800 Continental Plaza
777 Main Street
Ft. Worth, Texas 76102

(817) 878-2385
Docket No. BN 3340

FEDERAL EXPRESS

9-125A030

May 4, 1989

RECORDATION NO.

205119

FILED 1423

MAY 5 1989 - 3 15 PM

INTERSTATE COMMERCE COMMISSION

MAY 5 3 15 PM 1989
NOTOR OPERATING UNIT

Ms. Mildred Lee, Recordations
Interstate Commerce Commission
Room 2303
12th and Constitution Ave., N.W.
Washington, D.C. 20423

Re: Document for Recordation: Satisfaction and Bill of Sale to Burlington Northern Inc. (now Burlington Northern Railroad Company) Equipment Trust of 1973, Series 2

Dear Ms. Lee:

I am enclosing six counterparts of the document described below to be recorded pursuant to Section 11303, Title 49 of the United States Code.

The document to be recorded, a secondary document, is a Satisfaction and Bill of Sale, dated April 25, 1989, by which all right, title and interest in and to the existing equipment covered by the Burlington Northern Inc. (now Burlington Northern Railroad Company) Equipment Trust of 1973, Series 2, dated as of June 1, 1973, is conveyed to Burlington Northern Railroad Company.

The primary document to which the Satisfaction and Bill of Sale is connected, was recorded with the Interstate Commerce Commission on June 7, 1973, and assigned Recordation No. 7051.

The names and addresses of the parties to the transaction are:

Trustee: Citibank, N.A.
Five Hanover Square
New York, New York 10043

Ms. Mildred Lee
May 4, 1989
Page 2

Owner: Burlington Northern Railroad Company
3800 Continental Plaza
777 Main Street
Fort Worth, Texas 76102

A general description of the equipment covered by the enclosed Satisfaction and Bill of Sale is shown on Exhibit A of said document.

A fee of \$13.00 is enclosed for recording the Satisfaction and Bill of Sale. Please return the original and any extra copies not needed by the Commission for recordation to the undersigned.

A short summary of the document to appear in the index follows:

Satisfaction and Bill of Sale, dated April 25, 1989, to the Burlington Northern Inc. (now Burlington Northern Railroad Company) Equipment Trust of 1973, Series 2 (ICC Recordation No. 7051, June 7, 1973), conveying the equipment described on Exhibit A of said document.

Very truly yours,



Rebecca R. Martin
Legal Assistant

RRM/ta,33

Enclosures

MAY 25 1973

7053

RECORDATION NO. _____ Filed & Recorded

JUN 11 1973 - 10 05 AM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of December 1, 1972

Between

ORTNER FREIGHT CAR COMPANY

as Manufacturer

THE LIBERTY NATIONAL BANK AND TRUST COMPANY
OF OKLAHOMA CITY,

as Trustee under Trust Agreement dated as of December 1, 1972

(1972 Weyerhaeuser Trust)

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Attachments to Conditional Sale Agreement:

Schedule A - Description of Equipment

CONDITIONAL SALE AGREEMENT, dated as of February 1, 1973 among THE LIBERTY NATIONAL BANK AND TRUST COMPANY OF OKLAHOMA CITY, not in its individual capacity but solely as Trustee (the "Trustee") under Trust Agreement dated as of December 1, 1972, as heretofore or hereafter restated and amended (the "Trust Agreement") and the manufacturer or manufacturers whose name or names appear on the cover page of the instrument as Manufacturer or Manufacturers and who have executed this Conditional Sale Agreement. Said party or parties are hereinafter referred to in the plural as "Manufacturers" and individually as "Manufacturer", and in the event only one manufacturer shall be a party hereto, the plural term shall be read in the singular and appropriate alterations to references such as "each Manufacturer" and "Respective Manufacturers" and grammatical changes shall be deemed made. In the event the Equipment shall be leased to only one Lessee under one Equipment Lease, all as referred to below, all references to "Lessees" and "Equipment Leases" shall likewise be read in the singular and appropriate alterations and grammatical changes be deemed made.

WHEREAS, the respective Manufacturers are willing to construct, sell and deliver to the Trustee, and the Trustee is willing to purchase, from each respective Manufacturer the railroad equipment described in the Schedules attached hereto (collectively the "Equipment" and individually "Item of Equipment"); and

WHEREAS, the Trustee is leasing or will lease the Items of Equipment described in the Schedule hereto under a First Amendment and Restatement of Equipment Lease, dated as of the date hereof, as amended by an Amendment thereto dated as of the date hereof, each to Weyerhaeuser Company, a Washington corporation (the "Lessee"), subject to this Agreement, which Restatement of Equipment Lease and Amendment thereto are substantially in the form attached as Exhibits F and K, respectively, to the Trust Agreement; and

WHEREAS, said Restatement of Equipment Lease and Amendment thereto are herein sometimes collectively called the "Lease" and said manufacturers are herein sometimes collectively called the "Manufacturers" or individually the "Manufacturer"; and

WHEREAS, the Manufacturers, the Trustee and the Lessee have executed separate Agreements dated as of the date hereof relating to the acquisition of the Equipment, in the form attached as Exhibit A to the Trust Agreement (the "Acquisition Agreements");

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

SECTION 1. CONSTRUCTION AND SALE.

Each of the Manufacturers will construct, sell and deliver to the Trustee and the Trustee will purchase from each Manufacturer and accept delivery of and pay for as hereinafter provided, those Items of the Equipment which are indicated on the Schedules hereto attached hereto to be constructed and sold by such Manufacturer, each Item of which shall be constructed in accordance with the specifications referred to in the Schedules hereto and such modifications thereof as may be agreed upon in writing by the Trustee, the Lessee and such Manufacturer (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design and quality of equipment and material in such Item shall conform to all Department of Transportation requirements and specifications for new equipment, and to all standards recommended by the Association of American Railroads, interpreted as being applicable to new railroad equipment of the character of such Items as of the date of this Agreement.

SECTION 2. DELIVERY.

2.1. Each Manufacturer will deliver the various Items of Equipment to be manufactured by it to the Trustee in accordance with the delivery schedule set forth in the Schedules hereto.

2.2. Each Manufacturer's obligations as to time of delivery is subject, however, to delays resulting from causes beyond the Manufacturer's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riots or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials.

2.3. Notwithstanding the foregoing provisions, the Trustee shall not be obligated hereunder to accept and pay for any Equipment not delivered and accepted on or before July 1, 1973. Any Equipment not so delivered and accepted shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. In the event of any such exclusion the Manufacturer of such excluded Equipment shall remain obligated to construct, sell and deliver to the Lessee and the Lessee shall remain obligated to purchase from such Manufacturer, accept delivery of and pay for, any of the Equipment thus excluded from this Agreement, and the Manufacturer of such excluded Equipment, the Lessee, the Trustee and such Manufacturer shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not excluded herefrom.

2.4. The Equipment during construction shall be subject to inspection by an inspector or other authorized representative of the Lessee thereof and the Trustee. Acceptance of any Item of Equipment by the Lessee thereof under the Lease shall be deemed to be acceptance of such Item of Equipment by the Trustee, and the Trustee agrees to cause the Lessee thereof to furnish the Certificate or Certificates of Acceptance under the Lease applicable to such Item of Equipment to the Manufacturer thereof in such number of counterparts as may be reasonably requested.

2.5. The Manufacturer of each Item of Equipment shall bear the risk of loss thereof or damage thereto until delivery to and acceptance as provided in Section 2.4 hereof. Upon delivery and acceptance as provided in Section 2.4 hereof of each of such Items of Equipment, the Trustee shall bear the risk of loss of or damage to such Items.

SECTION 3. PURCHASE PRICE AND PAYMENT.

3.1. The base price per Item of the Equipment, including freight charges, if any, to place of delivery, but exclusive of interest, insurance and all other charges, is as set forth in the Schedules hereto. The base price per Item of the Equipment shall be subject to increase or decrease as may be agreed to in writing by the Manufacturer thereof and the Lessee thereof. The term "Purchase Price" as used herein shall mean the base price as the same may be increased or decreased, but for all Items of Equipment described in Schedule A hereto, shall not exceed the Maximum Price set forth in the Schedules.

3.2. For the purpose of making settlement for the Equipment, the Equipment shall be hereinafter called the "Group"). The Group shall consist of all Items of Equipment described in Schedule A hereto.

3.3. Subject to the provisions of Section 13 hereof, the Trustee hereby acknowledges itself to be indebted to the respective Manufacturers in the amount of, and hereby promises to pay to the respective Manufacturers at such bank or trust company in the United States of America as each of the respective Manufacturers or its assignee shall designate for payment to it, the Purchase Price of the Items of Equipment as follows:

(a) On the Closing Date (as hereinafter defined) an amount equal to 25% of the aggregate Purchase Price for the Group; and

(b) An amount equal to the difference between the aggregate Purchase Price of the Group and the aggregate amount paid pursuant to subparagraph (a) of this Section 3.3 on such purchase price (hereinafter called the "Conditional Sale Indebtedness") plus interest at the rate of 7-3/4% per annum on the unpaid balance thereof payable in installments as follows:

(1) One installment of interest only for the period from and including the Closing Date to but not including July 17, 1973 payable on July 17, 1973, followed by

(2) 40 semiannual installments, including both principal and interest, payable on January 17, 1974 and on the 17th day of each July and January thereof to and including July 15, 1993.

3.4. The obligations of the Trustee under this Agreement to accept delivery of and to pay for the Group, shall in addition to any conditions herein set forth, be subject to the satisfaction of the conditions set forth in Section 3 of the Acquisition Agreements. The payment by the Trustee on the Closing Date of the amount referred to in subparagraph (a) of the preceding Section 3.3 shall be conclusive evidence of such satisfaction.

3.5. The term "Closing Date" with respect to the Group shall mean such date which is not more than ten business days following presentation by the Manufacturer or Manufacturers of Items of Equipment in the Group to the Trustee of the invoice or invoices and the Certificate or Certificates of Acceptance with respect to the Group, as shall be fixed by the Trustee by written or telegraphic notice delivered to said Manufacturer or Manufacturers at least five days prior to the Closing Date designated therein, but not later than July 17, 1973.

3.6. Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

3.7. The Trustee will pay interest at the rate of 8 3/4% per annum upon all unpaid balances of indebtedness and (to the extent legally enforceable) upon interest, after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

3.8. All payments provided for in this Agreement shall be made by the Trustee in such coin or currency of the United States

of America as at the time of payment shall be legal tender for the payment of public and private debts.

3.9. In addition to the prepayments required to be made pursuant to Sections 6 and 28 hereof or permitted pursuant to Sections 15.3 and 23 hereof, (which prepayments are without premium), from and after July 17, 1983, the Trustee, but only upon the written direction of the Trustor under the Trust Agreement and with the written consent of Weyerhaeuser, shall have the privilege of prepaying in whole the balance of the Conditional Sale Indebtedness then unpaid by payment of such Conditional Sale Indebtedness and accrued interest thereon to the date of prepayment plus a premium equal to the applicable percentage of the amount so being prepaid determined as follows:

| <u>If Prepaid in the 12 Month Period Beginning July 17,</u> | <u>Applicable Premium</u> |
|---|---------------------------|
| 1983 | 3.670% |
| 1984 | 3.262% |
| 1985 | 2.854% |
| 1986 | 2.446% |
| 1987 | 2.038% |
| 1988 | 1.630% |
| 1989 | 1.222% |
| 1990 | 0.814% |
| 1991 | 0.806% |
| 1992 | NONE |

Upon payment to the Manufacturers of such amount, absolute right to the possession of, title to and property in, the Equipment shall automatically pass and vest in the Trustee without further transfer or action on the part of the Manufacturers. The Manufacturers, if requested by the Trustee, will upon receipt of such payment execute and deliver to the Trustee, at its address specified in Section 21 hereof, at the expense of the Trustee, appropriate instruments confirming such passage to the Trustee of title to the Equipment, free of all liens and encumbrances created or retained thereby, in recordable form in order that the Trustee may make clear upon the public records the title of the Trustee to the Equipment. Except as provided in this Section 3.9, and in Sections 6.1, 15.3, 23 and 28 hereof the Trustee shall not have the privilege of prepaying any installment of the indebtedness prior to the date it becomes due hereunder.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. Each Manufacturer shall and hereby does retain the full legal title to and property in the Equipment built by it until

the Trustee shall have made all of the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Trustee or the Lessee as herein provided. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

4.2. When and only when each Manufacturer shall have been paid the full indebtedness in respect of the purchase price of the Equipment built by it, together with interest and all other payments as herein provided and all the Trustee's other obligations herein contained shall have been performed, absolute right to the possession of, title to and property in such Equipment shall pass to and vest in the Trustee without further transfer or action on the part of such Manufacturer, except that each Manufacturer, if requested by the Trustee so to do, will execute a bill or bills of sale of such Equipment transferring its title thereto and property therein to the Trustee or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Trustee at its address specified in Section 21 hereof, and will execute in the same manner and deliver at the same place, for filing, registering, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Trustee to such Equipment, and will pay to the Trustee any money paid to such Manufacturers, pursuant to Section 6.1 hereof and not theretofore applied as therein provided. The Trustee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or to file such certificate within a reasonable time after written demand by the Trustee.

SECTION 5. MARKING OF EQUIPMENT.

The Trustee will use its best efforts to cause the Lessee to keep each Item of Equipment marked as contemplated by Section 4 of the Lease.

SECTION 6. CASUALTY OCCURRENCES; EQUIPMENT UNSERVICEABLE FOR USE.

6.1. In the event that any Item of the Equipment shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Lessee thereof, irreparably damaged from any cause whatsoever or shall be requisitioned or taken over by any government authority under the power of eminent domain or otherwise or the Lessee thereof, in its good faith judgment as determined by its chief executive officer, shall determine the same, not earlier than July 17, 1983, to be obsolete or economically unserviceable so as to be no longer useful in the conduct of such Lessee's business (each such occurrence, except for any requisition which by its terms does not exceed the period ending July 17, 1993 as provided in Section 6.5 hereof, being hereinafter called a "Casualty Occurrence"), prior to the payment of the indebtedness in respect of the purchase price of such Item, together with interest thereon and all other payments required hereby, the Trustee shall promptly (after it has knowledge of such Casualty Occurrence) and fully inform the Manufacturer thereof in regard thereto. When the aggregate Casualty Payment (as herein defined) of Items of Equipment leased under any one Lease having suffered a Casualty Occurrence (exclusive of Items of Equipment having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Manufacturer thereof pursuant to this Section) shall exceed \$50,000, the Trustee, on the next following date of payment provided in Section 3.3 hereof, shall pay, or cause to be paid, to the Manufacturer thereof the Casualty Payment of such Items as of the date of such payment; provided that notwithstanding the foregoing, the Trustee, on January 17 of each calendar year (commencing January 17, 1974) shall pay, or cause to be paid, to the Manufacturer thereof the Casualty Payment of any Item or Items of Equipment which have suffered a Casualty Occurrence during such calendar year or prior year for which no payment has previously been made to such Manufacturer pursuant to this Section 6.1. Such payment shall be in addition to the payment provided for on said date pursuant to Section 3.3(b)(2) hereof. Each such payment shall be accompanied by notification from the Trustee as to the Casualty Payment.

6.2. The Manufacturer, shall, immediately upon receipt thereof, apply the money deposited pursuant to Section 6.1 to the prepayment of the indebtedness in respect of the purchase price of the Equipment having suffered a Casualty Occurrence, plus interest then accrued on the portion thereof so prepaid, but without premium. The semiannual payments of the indebtedness in respect of the purchase price of the remaining Equipment and interest thereon,

becoming due thereafter shall be redetermined on the basis of the amount of such indebtedness remaining unpaid and on the basis of the number of semiannual payments remaining immediately after such application.

6.3. Upon payment to the Manufacturer of the Casualty Payment in respect of an Item of Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such Item shall automatically pass to and vest in the Trustee without further transfer or action on the part of the Manufacturer thereof. The Manufacturer, if requested by the Trustee, will execute and deliver to the Trustee, at its address specified in Section 21 hereof, at the expense of the Trustee, appropriate instruments confirming such passage to the Trustee of title to and property in such Item, free of all liens and encumbrances created or retained hereby, in recordable form in order that the Trustee may make clear upon the public records the title of the Trustee to such Item.

6.4. The Casualty Payment in respect of each Item of Equipment having suffered a Casualty Occurrence shall be deemed to be that portion of the purchase price of such Item remaining unpaid on the date as of which such Casualty Payment shall be determined, plus interest accrued thereon but unpaid as of such date.

6.5. In the event that prior to July 17, 1993, the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period ending on or before said date, the Trustee's duty to pay the indebtedness in respect of the purchase price thereof shall continue for the duration of such requisitioning or taking. A requisition or taking for an indefinite period of time shall not be deemed to exceed the period ending July 17, 1993 unless and until the period of such requisition or taking does in fact exceed such date and a requisition or taking of title shall be deemed to be a requisition or taking which exceeds the period ending July 17, 1993.

SECTION 7. REPORTS AND INSPECTIONS.

Promptly following the transmission thereof to the Trustee, the Trustee will furnish to each Manufacturer copies of each and every report or statement to be furnished to the Trustee by the Lessee pursuant to Section 12 of the Lease regarding the Items of Equipment Manufactured by such Manufacturer. Each Manufacturer shall have the right, by their agents, to inspect the Items of Equipment Manufactured by it and records of the Trustee with respect thereto once in every year.

SECTION 8. POSSESSION AND USE.

8.1. The Trustee, so long as it shall not be in default under this Agreement, shall be entitled, from and after delivery of the Equipment by the Manufacturers to the Trustee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

8.2. Without limiting any of the rights of the Trustee under Section 12 hereof, the Trustee may lease the Equipment to the Lessees or assigns as permitted by, and for use as provided in, Section 17 of the Lease, provided, however, that the rights of the Lessees and their permitted assigns under the Leases are subordinate and junior in rank to the rights, and are subject to the remedies, of the Manufacturers under this Agreement. A copy of any such assignment by the Lessee shall be furnished to the Manufacturers. The Trustee hereby agrees that it will not exercise any of the remedies provided in Section 14 of the Lease unless it shall notify the Manufacturers in writing of its intended exercise thereof, and hereby further agrees to furnish to any Manufacturer, at its written request, copies of all summons, writs, processes and other documents served by it upon any of the Lessee or served by any of the Lessee upon it in connection therewith.

SECTION 9. PROHIBITION AGAINST LIENS.

9.1. The Trustee will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Trustee or its successors or assigns (other than the Lessee or its assigns) which, if unpaid, might become a lien or a charge upon any Item of Equipment equal or superior to the title of the Manufacturer thereof, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the non-payment thereof does not adversely affect the property or rights of such Manufacturer hereunder.

9.2. This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent (such liens being herein called "permitted liens").

SECTION 10. INDEMNITIES.

10.1. The Trustee shall cause the Lessee to assume all risk and expense arising from the possession, use, operation and maintenance by whomsoever of the Equipment.

10.2. The Trustee will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any Item of or all the Equipment.

10.3. Each Manufacturer for itself warrants that the Items of Equipment to be built by it will be built in accordance with the Specifications therefor and warrants that such Items of Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Lessee thereof and not manufactured by the Manufacturer, in which case the Manufacturer will assign all guarantees, if any, or warranties, as received by it from the manufacturer of the specialty) or workmanship under normal use and service, each Manufacturer's obligation under this Section being limited to making good at its plant any part or parts of any such Item of Equipment which shall, within one year after the delivery of such Item to the Trustee, be returned to the Manufacturer thereof with transportation charges prepaid and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective; provided, however, that this warranty shall not apply to (i) any components which shall have been repaired or altered unless repaired or altered by the Manufacturer or its authorized service representatives, if, in its judgment, such repairs or alterations affect the stability of any such Item of Equipment or (ii) any such Item of Equipment which has been subject to misuse, negligence or accident. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE MANUFACTURERS, EXCEPT FOR THEIR OBLIGATIONS HEREUNDER AS LIMITED HEREBY, AND NEITHER MANUFACTURER ASSUMES OR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT EXCEPT AS AFORESAID. Each Manufacturer reserves the right to make changes in the design of, or add any improvements to, any Items of Equipment to be built by it at any time with the approval of the Lessee without incurring any obligation to make similar changes or additions in respect of other Items of Equipment previously delivered to the Lessee. Each Manufacturer further agrees with the Trustee that acceptance of any Items of Equipment under Section 2.4 hereof shall not be deemed a waiver by the Trustee of any of its rights under this Section 10.3. In no event shall the Manufacturers be liable for special or consequential damages.

SECTION 11. PATENT INDEMNITIES.

11.1. Except in cases of designs specified by the Lessee and not developed or purported to be developed by the Manufacturer, and articles and materials specified by any Lessee and not manufactured by the Manufacturer, each Manufacturer agrees for itself

to indemnify, protect and hold harmless the Trustee and the Lessees from and against any and all liability, claims, demands, costs, charges and expenses, including reasonable royalty payments and counsel fees, in any manner imposed upon or accruing against the Trustee or the Lessee because of the use in or about the construction or operation of any Item of Equipment to be built by it, of any design, article or material which infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right. In case any Item of Equipment is held to constitute infringement of any patent or other similar right in respect of which liability may be charged against such Manufacturer, and the use of any Item of Equipment is enjoined, such Manufacturer shall, at its own expense and at its option, either procure for the Trustee and the appropriate Lessee the right to continue using such Item of Equipment or replace the same with non-infringing equipment, or modify it so it becomes non-infringing. Without intending any limitation of the foregoing, each Manufacturer agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Trustee every claim, right and cause of action which such Manufacturer has or hereafter shall have against the originator of any design or against the seller or sellers of any designs or articles or materials purchased or otherwise acquired by such Manufacturer for use in or about the construction or operation of the Items of Equipment to be built by it on the ground that any such design, article or material or operation thereof infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right and each Manufacturer further agrees to execute and deliver to the Trustee all and every such further assurance as may be reasonably requested by the Trustee, more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. Each Manufacturer will give notice to the Trustee of any claim known to such Manufacturer from which liability may be charged against the Trustee hereunder and the Trustee will give notice to each Manufacturer of any claim known to it from which liability may be charged against such Manufacturer hereunder.

11.2. The term "design" wherever used in this Agreement or in any assignment of this Agreement shall be deemed to include formulae, systems and processes.

11.3. The obligations and liabilities of each Manufacturer under the provisions of this Section shall apply only to Equipment located and used in the continental United States, Canada and Mexico.

SECTION 12. ASSIGNMENTS.

12.1. The Trustee, to the extent that it may effectively do so under applicable provisions of law, covenants not to sell, assign, transfer or otherwise dispose of all or any of its rights under this Agreement except to a successor Trustee under the Trust Agreement (and then only subject to this Agreement) or except as provided in Section 8.2 hereof, transfer the right to possession of any Item of Equipment without first obtaining the written consent of the Manufacturers, which consent shall not be unreasonably withheld. No such sale, assignment or transfer shall subject the Manufacturers to any duties, obligations or liabilities whatsoever.

12.2. All or any of the rights, benefits and advantages of each Manufacturer under this Agreement, including the right to receive the payments herein provided to be made by the Trustee, may be assigned by such Manufacturer and reassigned by an assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve such Manufacturer from, any of the obligations of such Manufacturer to construct and to deliver the Equipment in accordance with the provisions hereof or to respond to its indemnities, guaranties, warranties and agreements contained herein, or relieve the Trustee of its obligations to the Manufacturers hereunder.

12.3. Upon any such assignment either the assignor or the assignee shall give written notice to the Trustee together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the assigning Manufacturer's right, title and interest in and to the Equipment, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Trustee of the notification of any such assignment, all payments thereafter to be made by the Trustee shall, to the extent so assigned, be made to the assignee at the address of the assignee specified in the aforesaid notice.

12.4. The Trustee recognizes that it is the custom of railroad equipment manufacturers or sellers to assign agreements of this character and understand that the assignment of this Agreement, or of some or all of the rights of the Manufacturers hereunder, is contemplated. The Trustee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the

Manufacturers hereunder, and for the purpose of inducing such acquisition, that in the event of such assignment by the Manufacturers as hereinbefore provided the rights of such assignee to the entire unpaid indebtedness in respect of the purchase price of the Equipment or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of either Manufacturer with respect to the Equipment or the delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Trustee by either Manufacturer. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Trustee against and only against the Manufacturers.

12.5. In the event of any such assignment or successive assignments by the Manufacturers of title to the Equipment and of the Manufacturers' rights hereunder with respect thereto, the Trustee will, whenever requested by such assignee, request the Lessees pursuant to Section 4 of the Leases to change the names and word or words to be marked on each side of each Item of Equipment so as to indicate the title of such assignee to the Equipment with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment.

12.6. In the event of any such assignment prior to the completion of delivery of the Equipment, the Trustee will, in connection with settlement for each Group of Equipment subsequent to such assignment, deliver to the assignee, at the time of delivery by the Trustee of notice fixing the Closing Date with respect to such Group, all documents reasonably required by the terms of such assignment to be delivered by the Trustee to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested, except for any opinion of counsel for the assignee.

12.7. If this Agreement shall have been assigned by any of the Manufacturers or all of the Manufacturers (hereinafter severally called the "Assigning Manufacturer"), and the assignee shall not make payment to the Assigning Manufacturer on the Closing Date with respect to a Group of Equipment manufactured by such Assigning Manufacturer of an amount equal to that portion of the purchase price of such Group as provided in the instrument of Assignment, such Assigning Manufacturer will promptly notify the Lessee and the Trustor under the Trust Agreement of such event and the Group of Equipment shall be excluded thereupon.

SECTION 13. LIMITATIONS OF LIABILITY.

Anything in this Conditional Sale Agreement or any other agreement or document of any nature whatsoever to the contrary notwithstanding, neither any Manufacturer nor their respective successors or assigns shall have any claim, remedy or right to proceed (at law or in equity) against the Trustee in its fiduciary or individual capacity (except for its gross negligence or willful misconduct) or against the Trustor (the "Trustor") under the Trust Agreement, for the payment of any deficiency or any other sum owing on account of the obligations evidenced hereby or for the payment of any liability resulting from the breach of any representation, agreement or warranty of any nature whatsoever from any source other than the Trust Estate (as defined in the Trust Agreement); and the Manufacturers and their respective successors and assigns by acceptance thereof waive and release any personal liability of the Trustee in its fiduciary capacity and in its individual capacity and the Trustor for and on account of such obligations or such liability and the Manufacturers and their respective successors and assigns agree to look solely to the Trust Estate as security for the fulfillment of said obligations or the satisfaction of such liability; provided, however, nothing herein contained (except as set forth in Section 15.1 hereof) shall limit, restrict or impair the rights of the Manufacturers and their respective successors and assigns to take all actions to enforce the rights and remedies provided for herein and to bring suit and obtain a judgment against the Trustee (provided that neither the Trustee in its fiduciary or individual capacity nor the Trustor shall have any personal liability on any such judgment and the satisfaction thereof shall be limited to the Trust Estate, including any interest therein of the Trustee or the Trustor) or, subject to the terms and conditions of the Leases, to foreclose the lien and security interest created by this Agreement or otherwise realize upon the Trust Estate, including the right to proceed against the Lessees under the Leases.

SECTION 14. APPLICATION OF PROVISIONS OF SECTION 15, "DEFAULTS", AND SECTION 16, "REMEDIES".

It is contemplated that each Manufacturer will, coincidentally with the execution and delivery of this Agreement, assign certain of its rights under this Agreement, and all its respective right, title and interest in and to the Equipment to a single assignee. It is desired by the parties hereto that such single assignee should upon such assignment be entitled to enforce any remedies in case of default by the Trustee in respect of its obligations under this Agreement with any of the Manufacturers as if such breach were a default in respect of the Trustee's obligations

under this Agreement with each of the Manufacturers. Accordingly, on the assumption that such assignments to a single assignee will be made by each Manufacturer, the defaults and the remedies therefor as set forth in Sections 15 and 16 hereof are set forth as if there were but a single Manufacturer.

SECTION 15. DEFAULTS.

15.1. In the event that any one or more of the following events of default shall occur and be continuing, to-wit:

(a) The Trustee shall fail to pay in full any sum payable by the Trustee when payment thereof shall be due hereunder and such default shall continue for ten business days; or

(b) The Trustee shall fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Manufacturer for such compliance for more than 30 days after written notice from the Manufacturer specifying the default and demanding the same to be remedied; or

(c) An Event of Default as defined in any Conditional Sale Agreement dated as of December 1, 1972 between or among the Trustee and Ortner Freight Car Company, General Motors Corporation (Electro-Motive Division), Thrall Car Manufacturing Company and PACCAR, Inc. shall have occurred and be continuing.

(d) One or more of the Events of Default enumerated in Section 14 of any Lease shall occur and be continuing or if, without the prior written consent of the Manufacturer, any Lease shall be amended or supplemented or, except in accordance with the terms thereof, cancelled or terminated with respect to any Item of Equipment, or any of the terms thereof shall be waived or modified; or

(e) Any representation or warranty made herein or in any Lease or in any report, certificate, financial or other statement furnished in connection with this Agreement or any Lease, or the transactions contemplated thereby shall prove to be false or misleading in any material respect; or

(f) The Trustee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence and during the continuance of such an event of default the Manufacturer may, upon written notice to the Trustee and upon compliance with any legal requirements then in force and applicable to such action by the Manufacturer, but without prejudice to any rights of the Trustee under the Lease with respect to any default thereunder, cause the Lease immediately upon such notice to terminate as to the Equipment and/or declare the entire indebtedness in respect of the purchase price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such declaration at the rate of 8-3/4% per annum, to the extent legally enforceable, and the Manufacturer shall thereupon be entitled, subject to the provisions and limitations of Section 13 hereof, to recover judgment for the entire unpaid balance of the indebtedness in respect of the purchase price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Trustee subject to the provisions and limitations of Section 13 hereof.

Notwithstanding the foregoing or any other provision contained in this Agreement, in the case of any Event of Default under the Lease which can be cured by the payment of money, the Manufacturer shall not, without the prior written consent of the Trustee, exercise any of the remedies provided for herein in respect of such Event of Default during the thirty-day period next following (i) the occurrence of such Event of Default, and (ii) written notification specifying the default by any such Manufacturer to the Trustee, the Trustor under the Trust Agreement and the Lessee. During such period, the Trustee shall have the right to cure such an Event of Default on behalf of the Lessee and in the case of an Event of Default arising out of a failure of the Lessee to pay Fixed Rental under the Lease, the Trustee shall have the additional right to pay on behalf of the Lessee the installments of Fixed Rental when due or during the grace period provided therefor in Section 14.1(a) of the Lease. In the case of an Event of Default caused by the failure of the Trustee to remit to any Manufacturer any amounts due hereunder which have been paid to the Trustee by the Lessee, the Lessee shall have the right to cure such Event of Default by paying to said Manufacturer within the time period described in the first sentence of this paragraph an amount equal to the amount due said Manufacturer.

15.2. The Manufacturer may waive any event of default hereunder and its consequences and rescind and annul any such declaration by notice to the Trustee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such default had existed and no such declaration had been made. With respect to any termination of the Lease by the Manufacturer, the aforesaid waiver, rescission and annulment shall be deemed made, and the Lease shall be deemed not to have been terminated, if the Trustee within 30 days after receiving written notice thereof as aforesaid, shall elect in writing to cure such default. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Trustee that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

15.3. Any default hereunder shall be deemed cured and not continuing if the Trustee, prior to any sale by the Manufacturer of the Equipment as provided in Section 16.3, shall pay or cause to be paid to the Manufacturer the total unpaid balance of the indebtedness in respect of the purchase price of the Equipment, together with interest thereon accrued and unpaid, but without prepayment penalty, and all other payments due under this Agreement.

SECTION 16. REMEDIES.

16.1. If an event of default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire indebtedness in respect of the purchase price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Manufacturer may, upon such further notice, if any, as may be required for compliance with any mandatory requirement of law then in force and applicable to the action to be taken by the Manufacturer, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any Item thereof, without liability to return to the Trustee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 16 expressly provided, and may remove the same from possession and use of the Trustee and the Lessee and for such purpose may enter upon the premises of the Trustee or the Lessee or where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Trustee or the Lessee, with or without process of law.

16.2. In case the Manufacturer shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Lessee for the delivery of the Equipment to the Manufacturer, the Trustee, shall at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be reasonably designated by the Manufacturer and shall there deliver the Equipment or cause it to be delivered by the Lessee to the Manufacturer; and, at the option of the Manufacturer, the Manufacturer may keep the Equipment on any of the lines of railroad or premises of the Lessee, for a period not exceeding 180 days, until the Manufacturer shall have leased, sold or otherwise disposed of the same, and for such purpose the Trustee agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Manufacturer reasonably convenient. The agreement to deliver the Equipment as hereinbefore provided is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Manufacturer shall be entitled to a decree requiring specific performance hereof. The Trustee hereby expressly waives any and all claims against the Manufacturer and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

16.3. If an event of default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such default and after the entire indebtedness in respect of the purchase price of the Equipment shall have been declared immediately due and payable as hereinbefore provided, the Manufacturer (after retaking possession of the Equipment as hereinbefore in this Section provided) may at its election, upon written notice to the Trustee as hereinafter provided, retain the Equipment as its own and make such disposition thereof as the Manufacturer shall deem fit, and in such event all rights of the Trustee in the Equipment will thereupon terminate and all payments made by the Trustee may be retained by the Manufacturer as compensation for the use of the Equipment by the Trustee; or the Manufacturer with or without the retaking of possession thereof may, at its election, sell the Equipment, or any Item thereof, free from any and all claims of the Trustee, or of any other party (including the Lessee) claiming by, through or under the Trustee, at law or in equity, at public or private sale and with or without advertisement as the Manufacturer may determine; and the proceeds of such sale, less the reasonable attorneys' fees and any other expenses incurred by the Manufacturer in taking possession of, removing, storing and selling the Equipment, shall be credited to the amount due to the Manufacturer under the provisions of this Agreement; provided, however, that if the Trustee, within 20 days of receipt of notice of

the Manufacturer's election to retain the Equipment for its own use, as herein provided, or prior to any sale by the Manufacturer of the Equipment, as herein provided, shall pay or cause to be paid to the Manufacturer the total unpaid balance of the indebtedness in respect of the purchase price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Trustee. Written notice of the Manufacturer's election to retain the Equipment for its own use may be given to the Trustee by mail addressed to the Trustee as provided herein, at any time during a period of 30 days after the indebtedness in respect of the purchase price of the Equipment shall have been declared immediately due and payable as hereinbefore provided; and if no such notice shall have been given, the Manufacturer shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Section.

16.4. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Manufacturer may specify, in one lot and as an entirety, or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Manufacturer may determine, provided that the Trustee shall be given written notice of such sale not less than thirty days prior thereto, by mail addressed as provided herein. If such sale shall be a private sale, it shall be subject to the rights of the Trustee to purchase or provide a purchaser, within thirty days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. The Manufacturer may bid for and become the purchaser of the Equipment, or any Item thereof, so offered for sale without accountability to the Trustee (except to the extent of surplus money received as hereinafter provided in this Section), and in payment of the purchase price therefor the Manufacturer shall be entitled to have credited on account thereof all sums due to the Manufacturer from the Trustee hereunder.

16.5. Each and every power and remedy hereby specifically given to the Manufacturer shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Manufacturer. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Manufacturer in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

16.6. All sums of money realized by the Manufacturer under the remedies herein provided shall be applied, first to the payment of the expenses and liabilities of the Manufacturer herein undertaken to be paid, second to the payment of interest on the indebtedness in respect of the purchase price of the Equipment accrued and unpaid and third to the payment of the indebtedness in respect of the purchase price of the Equipment. If, after applying as aforesaid all sums of money realized by the Manufacturer, there shall remain any amount due to it under the provisions of this Agreement, the Manufacturer may bring suit therefor and shall be entitled to recover a judgment therefor against the Trustee, subject to the provisions of Section 13 hereof. If, after applying as aforesaid all sums realized by the Manufacturer, there shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid to the Trustee.

16.7. The Trustee, subject to the provisions of Section 13 hereof, will pay all reasonable expenses, including attorneys' fees, incurred by the Manufacturer in enforcing its remedies under the terms of this Agreement. In the event that the Manufacturer shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Manufacturer may recover reasonable expenses, including attorneys' fees and the amount thereof shall be included in such judgment.

16.8. The foregoing provisions of this Section are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

SECTION 17. APPLICABLE STATE LAWS.

17.1. Any provision of this Agreement prohibited by any applicable law of any State, or which by any applicable law of any State would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such State be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable State law may be waived, they are hereby waived by the Trustee to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforceable as such.

17.2. Except as otherwise provided in this Agreement, the Trustee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the

Equipment, or any Item thereof, and any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Manufacturers' rights hereunder and any and all rights of redemption.

17.3. Nothing contained in this Section 17 or any other provision of this Agreement shall be deemed to make ineffective, or to modify or waive, the provisions and limitations of Section 13 hereof.

SECTION 18. EXTENSION NOT A WAIVER.

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Manufacturers shall impair or affect the Manufacturers' right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Trustee shall not otherwise alter or affect the Manufacturers' rights or the obligations of the Trustee hereunder. The Manufacturers' acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Trustee's obligations or the Manufacturers' rights hereunder with respect to any subsequent payments or defaults therein.

SECTION 19. RECORDING.

The Trustee will cause this Agreement, the first assignment hereof and any supplements hereto and thereto to be filed, recorded or deposited and refiled, re-recorded or redeposited, if necessary, with the Interstate Commerce Commission, and otherwise as may be required by law or reasonably requested by the Manufacturers for the purpose of proper protection, to the satisfaction of counsel for the Manufacturers of their title to the Equipment and their rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Trustee will promptly furnish to the Manufacturers certificates or other evidences of such filing, recording or depositing, and an opinion or opinions of counsel for the Lessees with respect thereto, satisfactory to the Manufacturers.

SECTION 20. PAYMENT OF EXPENSES.

Whether or not the financing of the Equipment contemplated hereby shall be consummated, Weyerhaeuser will pay all reasonable costs and expenses, except the counsel fees of the Manufacturers, and including, without limitation, all taxes and other expenses, if any, incident

to the printing or other duplicating, execution, acknowledgment and delivery of this Agreement, of the first or second assignment by the Manufacturers of this Agreement, of any instrument supplemental hereto or amendatory hereof, and of any certificate of the payment in full of the indebtedness in respect of the purchase price due hereunder. In addition, Weyerhaeuser will pay all reasonable costs, charges and expenses of the first and second assignee of this Agreement and of any other parties acquiring interests in such first and second assignment, incurred in connection with such assignments including counsel fees, stamp and other taxes, if any, payable by such first or second assignee or payable by such other parties and payments to the Manufacturers by such first or second assignee and other parties. In the event the financing of the Equipment contemplated hereby shall be consummated, the Trustor under the Trust Agreement will pay the amount of all such costs and expenses, excepting any annual fees of the Trustee, which annual fees are to be paid by Weyerhaeuser; provided that such Trustor shall in no event pay in the aggregate for such costs and expenses an amount greater than 1% of the total purchase price of the Equipment, and the excess, if any, of such costs and expenses over such amount will be paid by Weyerhaeuser.

SECTION 21. NOTICE.

Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) To the Trustee: P. O. Box 25848, Oklahoma City, Oklahoma 73125;

(b) To a Manufacturer: at its address set forth in the Schedules.

(c) To a Lessee: at its address set forth in the Schedules.

(d) To General Electric Credit Corporation: P. O. Box 81, North Station, White Plains, New York 10603; Attention: Loan Officer

(e) to any assignee of the Manufacturers, or of the Trustee or the Agent, at such address as may have been furnished in writing to the Trustee, the Agent or the Manufacturers, as the case may be, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

SECTION 22. HEADINGS.

All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

SECTION 23. EFFECT AND MODIFICATION OF AGREEMENTS.

This Agreement and the Schedules relating hereto, together with the Leases and the Acquisition Agreements, exclusively and completely state the rights and agreements of the Manufacturers and the Trustee with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Manufacturers or the Trustee. Without the prior written consent of the Manufacturers, the Trustee will not consent to any amendment, modification, waiver or supplement to the Leases or, except in accordance with Section 14 thereof, cancel or terminate the Leases prior to the payment in full of the indebtedness in respect of the purchase price of the Equipment, together with interest thereon; provided, however, if an Event of Default under the Lease arises out of a failure of the Lessee in the observance or performance of any provision in Sections 2.1, 8, 10, 11 or 23 of the Lease shall have occurred and be continuing, or if an event, which with the passing of time or the giving of notice, or both, would constitute such an Event of Default shall have occurred and be continuing, and if the Trustor under the Trust Agreement shall have made a good faith determination that such occurrence substantially or adversely affects its interest in the Equipment, the Trustee may exercise the rights and remedies of the Lessor under the Lease so long as concurrently therewith the Trustee shall prepay in whole the balance of the Conditional Sale Indebtedness then unpaid by payment of such Conditional Sale Indebtedness and accrued interest thereon to the date of payment but without premium, or the Trustor shall make provision for such payment satisfactory to the Manufacturers or their assignees. Upon payment to the Manufacturers or their assignees of such amount, absolute right to the possession of, title to and property in, the Equipment shall automatically pass and vest in the Trustee without further transfer or action on the part of the Manufacturers. The Manufacturers, if requested by the Trustee, will upon receipt of such payment execute and deliver to the Trustee, at its address specified

in Section 21 hereof, at the expense of the Trustee, appropriate instruments confirming such passage to the Trustee of title to the Equipment, free of all liens and encumbrances created or retained thereby, in recordable form in order that the Trustee may make clear upon the public records the title of the Trustee to the Equipment.

SECTION 24. LAW GOVERNING.

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Oklahoma; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

SECTION 25. DEFINITIONS.

The term "Manufacturers", whenever used in this Agreement, means, before any assignment of any of their rights hereunder, the Manufacturers, respectively, and any successor or successors for the time being to the manufacturing properties and business of each respectively, and, after any such assignment, any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained and excluded from any assignment.

SECTION 26. ASSIGNMENT OF LEASE.

As contemplated by the preamble hereto and the provisions of Section 8 hereof, to further secure the payment of the full amount of the indebtedness in respect to the purchase price of the Equipment, together with interest thereon, and all other payments as herein provided and for the performance of the Trustee's obligations herein contained, the Trustee hereby assigns, transfers and sets over unto each Manufacturer, and grants a security interest in, all the Trustee's right, title and interest, as Lessor under the Lease together with all rights, powers and privileges, and all other benefits of the Trustee as Lessor under the Lease, insofar as the same cover or relate to the Equipment built by such Manufacturer including, without limitation, except as hereinafter provided, the immediate right to receive and collect all rentals and profits and other sums payable to or receivable by the Trustee under or pursuant to the provisions of the Lease, insofar as the same cover or relate to the Equipment and the right to make all waivers and agreements, to give

all notices, consents and releases, to take all action upon the happening of an Event of Default under the Lease, and to do any and all other things whatsoever which the Trustee, as Lessor, is or may become entitled to do under the Lease; but excepting and reserving to the Trustee and the Trustor, however, all rights of the Trustee and the Trustor under the Lease (i) to sue for and receive damages under the Lease for the breach of any covenant, representation or warranty of the Lessee under Section 21 of the Lease, and in the event of a termination of the Lease pursuant to Section 14.2(b) thereof, to sue for and receive damages under the Lease payable under Section 14.2(c) of the Lease, and (ii) in respect of all indemnities provided in the Lease for the benefit of either the Trustee or the Trustor, but the reservation in this clause (ii) shall not prevent any suit and recovery by the Manufacturers and their assigns under the Lease in respect of all indemnities provided in the Lease for the benefit of the Manufacturers and their assigns. In furtherance of the foregoing assignment, the Trustee hereby irrevocably authorizes and empowers each Manufacturer, in its own name, or in the name of its nominee, or in the name of the Trustee, or as its attorneys, to ask, demand, sue for, collect and receive any and all sums to which the Trustee is or may become entitled under the Leases in respect of the Equipment, and to enforce compliance by the Lessees with all the terms and provisions of the Lease. The Trustee further agrees to notify promptly the Manufacturers of any Event of Default under the Lease of which it has notice. This assignment being made only as security shall not subject the Manufacturers to, or transfer, or pass, or in any way affect or modify, the liability of the Trustee under the Lease, it being understood and agreed that notwithstanding this assignment, or any subsequent assignment, all obligations of the Trustee to the Lessee under the Lease, shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Trustee. Further, the Trustee covenants and agrees that it will perform all its obligations to be performed under the terms of the Lease; and hereby irrevocably authorizes and empowers each Manufacturer, in its own name, or in the name of its nominee, or in the name of the Trustee, as its attorney, on the happening of any failure by the Trustee to perform or cause to be performed, any such obligation. Upon the full discharge and satisfaction of the full amount of the indebtedness in respect of the purchase price of the Equipment, together with interest thereon, and all other payments as herein provided and the performance of all of the Trustee's obligations herein contained, the assignment made hereby and all rights herein assigned to the Manufacturers shall cease and terminate, and all estate, right, title and interest of the Trustee in and to the Lease shall revert to the Trustee.

SECTION 27. IMMUNITIES; SATISFACTION OF UNDERTAKINGS.

No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any person solely by reason of the fact that he is an incorporator, stockholder, director or officer, past, present or future, of the Trustee or any Manufacturer, or against the Trustor under the Trust Agreement, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise; it being expressly understood that the obligations due under this Agreement are corporate obligations, and that no personal liability whatever shall attach to or be incurred by any person solely by reason of the fact that he is such incorporator, stockholder, officer, director or the Trustor under the Trust Agreement under or by reason of this Agreement, and that all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors, officers or the Trustor under the Trust Agreement is forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Trustee under Sections 2.5, 5.7, 9, 10.2, 16.2, 16.7 and 19 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Trustee shall not be obligated personally to perform such obligations and shall not have any responsibility for the Lessees' failure to perform such obligations, but if the same shall not be performed, they shall constitute the basis for an event of default hereunder pursuant to Section 15 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Trustee.

SECTION 28. REQUIRED PREPAYMENT RELATING TO INTERIM FINANCING BY CHEMICAL BANK.

It is contemplated that Chemical Bank ("Chemical") will execute with the Manufacturers an Agreement and Assignment pursuant to which, as referred to in Section 14 hereof, the Manufacturers will assign certain of their rights hereunder to Chemical. It is further contemplated that on July 17, 1973, United Benefit Life Insurance Company ("United Benefit") will pay to Chemical, upon receipt by assignment from Chemical of all the rights of the Manufacturers hereunder assigned to Chemical, a sum equal to the aggregate amounts advanced by Chemical to the Manufacturers pursuant to such Agreement and Assignment. In the event the Manufacturers so assign their rights hereunder to Chemical, and United Benefit (or any other institutional investor substituting therefor) fails for any reason whatsoever on July 17, 1973 to pay such sum to Chemical in exchange for such assignment of rights, then on July 17, 1973 the Trustee shall prepay, without premium, the whole of the balance of

the Conditional Sale Indebtedness then unpaid by payment of such Conditional Sale Indebtedness and accrued interest thereon to (but not including) such date at the office of Chemical at 20 Pine Street, New York, New York."

SECTION 29. EXECUTION.

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. It shall not be necessary that any counterpart be signed by all Manufacturers so long as any counterpart which is executed by any Manufacturer is also executed by the Trustee, and upon execution by any Manufacturer and the Trustee, this Agreement shall then be in full force and effect as between such parties with regard to the Equipment manufactured or to be manufactured by such Manufacturer. Although this Agreement is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by their officers or representatives, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

THE LIBERTY NATIONAL BANK AND TRUST
COMPANY OF OKLAHOMA CITY, as Trustee
under 1972 Weyerhaeuser Trust

(Corporate Seal)

ATTEST:


C.A. Hartung
Assistant Secretary

By 
Herman Wright
Its Vice-President

(Corporate Seal)

ATTEST:


H. Linker
Assistant Secretary

ORTNER FREIGHT CAR COMPANY

By 
R.C. Ortner
Its President

STATE OF Oklahoma)
) SS
COUNTY OF Oklahoma)

On this 1st day of June, 1973, before me personally appeared Vernon D. Wright, to me personally known, who being by me duly sworn, says that he is a Vice-President of THE LIBERTY NATIONAL BANK AND TRUST COMPANY OF OKLAHOMA CITY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

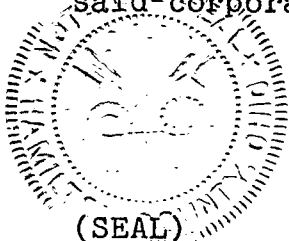
(Seal)

My Commission expires: 3-17-75

Judy L. Stewart
Notary Public

STATE OF Ohio)
COUNTY OF Hamilton) SS

On this 30th day of May, 1973, before me personally appeared R. C. Ortner, to me personally known, who being by me duly sworn, says that he is the _____ President of Ortner Freight Car Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Howard E. Farn
Notary Public

Notary Public, Hamilton County, Ohio
My Commission Expires: My Commission Expires August 10, 1973